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OFFICE OF PETITIONS

In re Application of
Igor Giterman
Application No. 10/620,393
Filed: July 16, 2003
Attorney Docket No. 02570-P0017A

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: DECISION ON PETITION
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This is a decision on the "PETITION TO ACCORD FILING DATE TO ITEMS ALLEGED MISSING," filed January 29, 2004. Petitioner requests that the Office accord the filing date of July 16, 2003 to both the filing fee of \$808 and the Declaration and Power of Attorney.

Application papers in the above-identified application were filed on July 16, 2003. However, on January 16, 2004, the Initial Patent Examination Division mailed applicant a NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION, advising applicant that the statutory basic filing fee and the oath or declaration were missing.

In response, applicant filed the instant petition (and petition fee). Applicant contends that the basic filing fee and declaration were deposited on July 16, 2003 with the nonprovisional application papers. In support thereof, applicant submits a copy of their return postcard from the USPTO.

Although the evidence is persuasive¹, consideration of petitioner's argument is not necessary to decide this petition.

A review of the application-as-filed reveals that it included a check for \$808 and an executed declaration. The declaration with a date of receipt of July 16, 2003 is present in the application. However, a review of the finance records for this application

¹ A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioners' postcard receipt reveals that: 1) it was date stamped as received in the USPTO on July 16, 2003, and the items filed therewith were assigned Application No. 10/620,393; 2) it specifically identifies the items being filed, including "Declaration and Power of Attorney" and "\$808 Check" and 3) it lacks any annotation of non-receipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including the Declaration and the basic filing fee, were filed on July 16, 2003.

supports a conclusion that the check was misplaced in the Office. Alternatively, even if the check were not received in the Office, a review of the application-as-filed reveals that it included an authorization to charge fees required under \$ 1.16 and \$ 1.17 to a Deposit Account. Furthermore, a review of the finance records for the Deposit Account reveals that it had sufficient funds throughout the month of July to pay the basic filing fee.

Accordingly, the petition is GRANTED.

The Notice to File Missing Parts of Application mailed January 16, 2004 is hereby VACATED.

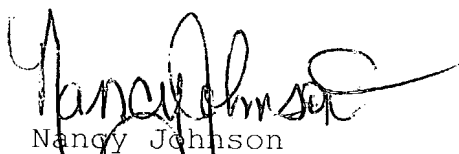
Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 19-4516, as authorized.

This decision is being made of record in the application and pursuant to this decision, the Office of Initial Patent Examination (OIPE) is being requested to:

- vacate the Notice to File Missing Parts mailed January 16, 2004; and
- continue with completion of pre-examination processing.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to the undersigned at 703-305-0309.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions